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6 UNITED STATES DISTRICT COURT
7 CENTRAL DISTRICT OF CALIFORNIA
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10 KENNETH WAYNE MILLS,

11 Petitioner,

12 v.

13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF
CALIFORNIA,

15 Respondent.
16

Case No. CV 18-2785-CBM (KK)

ORDER SUMMARILY DISMISSING
PETITION AS DUPLICATIVE

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18 Petitioner Kenneth Wayne Mills (“Petitioner”) has now filed three pro se
19 Petitions for Writ of Habeas Corpus by a Person in State Custody pursuant to 28
20 U.S.C. § 2254 challenging the same conviction on the same ground. ECF Docket
21 No. (“Dkt.”) 1. For the reasons set forth below, the Petition is dismissed as
22 duplicative.

23 **I.**

24 **PROCEDURAL HISTORY**

25 On April 25, 2017, Petitioner filed a habeas petition in the Eastern District of
26 California Case No. 2:17-873-JAM-EFB (“First Petition”). Mills v. California
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1 Department of Corrections and Rehabilitation, CV 17-6748-CBM (KK), Dkt. 1.¹
2 The First Petition challenged Petitioner’s conviction for mayhem and assault in
3 Los Angeles County Superior Court based on the denial of counsel at a
4 competency hearing. Id. at Dkt. 23, Second Amended Petition. On September 12,
5 2017, the First Petition was transferred to this Court and received case number CV
6 17-6748-CBM (KK). Id. at Dkt. 25.

7 On October 18, 2017, Petitioner filed a habeas petition in this Court, which
8 received case number CV 17-7901-CBM (KK) (“Second Petition”). Mills v.
9 California Department of Corrections, CV 17-7901-CBM (KK), Dkt. 1. The
10 Second Petition challenged Petitioner’s conviction for mayhem and assault in Los
11 Angeles County Superior Court based on the denial of counsel at a competency
12 hearing. Id.

13 On December 4, 2017, the First Petition and Second Petition were
14 consolidated and dismissed with prejudice as untimely. See CV 17-7901-CBM
15 (KK), Dkts. 36, 37, 38; see also Mills v. California Dep’t of Corr. & Rehab., No.
16 CV 17-6748-CBM (KK), 2017 WL 6048907, at *1 (C.D. Cal. Oct. 31, 2017),
17 report and recommendation adopted, 2017 WL 6060595 (C.D. Cal. Dec. 4, 2017).

18 On April 4, 2018, the instant Petition was transferred to this Court from the
19 Eastern District of California.² Dkts. 1, 10. The Petition again challenges
20 Petitioner’s conviction for mayhem and assault in Los Angeles County Superior
21 Court based on the denial of counsel at a competency hearing. Dkt. 1 at 2-3.

23 ¹ The Court takes judicial notice of Petitioner’s prior proceedings in this Court and
24 in the state courts. See In re Korean Air Lines Co., 642 F.3d 685, 689 n.1 (9th Cir.
2011).

25 ² Petitioner appears to argue he is entitled to habeas relief because his “Petition
26 Case No 2:17-cv-00873” was “not heard.” Dkt. 1. At the time Petitioner
27 constructively filed the instant Petition on October 8, 2017, this Court had not yet
28 ruled on Central District of California Case No. 17-6748-CBM (KK), which was
the case number assigned to Eastern District of California Case No. 2:17-873-
JAM-EFB when the action was transferred to this Court. However, the Court has
now heard and dismissed the April 25, 2017 action as untimely. Hence, the relief
sought must be denied as moot.

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1 Here, the instant Petition challenges Petition’s conviction for mayhem and
2 assault in Los Angeles County Superior Court based on the denial of counsel at a
3 competency hearing. The Petition, thus, challenges the same conviction on the
4 same grounds and seeks the same relief as the First and Second Petitions.³ Hence,
5 the instant Petition must be dismissed as duplicative.

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III.
ORDER

IT IS THEREFORE ORDERED THAT Judgment be entered dismissing this
action with prejudice as duplicative.

Dated: April 18, 2018


HON. CONSUELO B. MARSHALL
United States District Judge

Presented by:


KENLY KIYA KATO
United States Magistrate Judge